

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CABLE NEWS NETWORK, INC.,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

Case No. 1:17-cv-01167-JEB

**PLAINTIFF'S RESPONSE TO THE SIXTH DECLARATION OF DAVID M. HARDY**

Plaintiff Cable News Network, Inc. ("CNN"), by and through its undersigned counsel, hereby responds to the Sixth Declaration of David M. Hardy, Dkt. 81-1. Section Chief Hardy asserts that his declaration "incorporates by reference and supplements . . . the sealed on-the-record, *ex parte* proffer of Michael R. Dreeben, Counsel to the Special Counsel." Sixth Hardy Decl. ¶ 5.

This statement adds to the confusion of what "sealed on-the-record, *ex parte* proffer" record the FBI, and the Court, are referring to. *See* Pl.'s Resp. to Def.'s Apr. 8, 2019 Notice, Dkt. 80. CNN respectfully reiterates its request that the Court make plain in the public record what remains sealed in "the record that could be reviewed on appeal or in any subsequent litigation," Feb. 2, 2018 Mem. Op. at 5, Dkt. 49, including any form of record of the proceeding that the FBI and Office of Special Counsel held *ex parte* with the Court. CNN also respectfully submits that a brief chambers conference would provide clarity as to the identification of all Sealed Records.

Dated: April 16, 2019

Respectfully submitted,

BALLARD SPAHR LLP

/s/ Charles D. Tobin

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